nexdigm

Tax Street

A flagship publication that captures key developments in the areas of Tax and Regulatory environment

April 2025

Introduction

Tax Street

We are pleased to present the latest edition of Tax Street – our newsletter that covers all the key developments and updates in the realm of taxation in India and across the globe for the month of April 2025.

- The 'Focus Point' elaborates upon the recent CBDT notification that outlines how expenses on settlement under certain notified laws not allowed as deduction.
- Under the 'From the Judiciary' section, we provide in brief, the key rulings on important cases, and our take on the same.
- Our 'Tax Talk' provides key updates on the important tax-related news from India and across the globe.
- Under 'Compliance Calendar', we list down the important due dates with regard to direct tax, transfer pricing and indirect tax in the month.

We hope you find our newsletter useful and we look forward to your feedback.
You can write to us at taxstreet@nexdigm.com. We would be happy to hear your thoughts on what more can we include in our newsletter and incorporate your feedback in our future editions.

Warm regards,
The Nexdigm Team

Focus Point

Section 37(1) – Expenses on settlement under certain notified laws not allowed as deduction – **CBDT Notification – Settling or unsettling the law?**

Recently the Central Board of Direct Taxes(CBDT) has released a notification[1] wherein it has been mentioned that if an assessee **incurs any expenditure for settlement of proceedings initiated in relation to contravention or defaults under notified laws**, the same will not be considered as incurred for the purposes of business and profession and will be disallowed while computing the income under the head Profits and Gains from Business and Profession(PGBP). Whether this notification has settled an unclear position or brought in new questions? Let us understand this issue in a bit detail.

Section 37 of the Income-tax Act, 1961 (ITA) mentions **that any expenses not covered under Section 30-36 of the ITA, incurred wholly and exclusively for the purposes of business, revenue in nature and are not personal** can be claimed as a deduction. Explanation 1 to the said section mentions that any expenditure incurred for any purpose which is an offence, or which is prohibited by law shall not be allowed as a deductible expenditure.

Further, **the Explanation 3**, inserted by Finance Act, 2022 and further amended by Finance Act (No.2), 2024 seeks to clarify the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" and states that any expenditure incurred to settle proceedings initiated in relation to contravention under such law as may be notified by the Central Government in the Official Gazette in this behalf shall also be disallowed.

Recently the CBDT notified[2] the relevant statutes covered in Explanation 3 above. The notification states that expenses incurred to settle proceedings initiated **in relation to contravention or defaults**, for the below-mentioned acts shall not be allowed as deduction:

1. The Securities and Exchange Board of India Act, 1992 (15 of 1992);
2. The Securities Contracts (Regulation) Act, 1956 (42 of 1956);
3. The Depositories Act, 1996 (22 of 1996);
4. The Competition Act, 2002 (12 of 2003).

It is pertinent to note that the notification mentions proceedings initiated in relation to contravention **or defaults** in respect of the said laws. However, the Explanation 3 uses the term **contravention only**. The terms contravention and default are not synonymous and have different meanings. The notification appears to expand the scope of the explanation to include defaults as well under the notified laws. This may lead to challenging the notification as well as question which amounts will not be allowed as a deduction.

Also, as of now only 4 laws are notified. Interestingly the notification does not cover Goods and Service Tax, Companies Act 2013, Foreign exchange Management Act 1999 etc.

In the past prior to the above amendments, deductibility of compounding charges or settlement charges paid under various laws has been a matter of litigation. While it is a settled position that illegal payments or penalties are not allowed as a deduction[3], compounding or settlement charges take a different flavor.

The Honorable Mumbai Tribunal in the case of Deputy Commissioner of Income tax, Circle 3(3)(1), Mumbai v. Anil

1 Notification No. 38/2025 dated 23 April 2025

2 Notification No. 38/2025 dated 23 April 2025

3 AIR 1998 SUPREME COURT 563

Dhirajlal Ambani[4], had held that the settlement charges paid to SEBI under SEBI's Guidelines regarding consent terms without admitting guilt could not be said to be 'an offence' or 'prohibited by law'. These were not in the nature of *hafta*, bribe, protection money, etc. It was further mentioned that such payments were made with an intention to save the time and cost of the assessee and hence were allowed as a business expenditure.

Similar contention was held in the case of Income-tax Officer-4(2)(1), Mumbai v Reliance Share & Stock Brokers (P.) Ltd,[5] wherein it was held that as the consent fee was paid by assessee-stock broker to SEBI for some technical violations and without admitting guilt, it was an allowable business expenditure.

Thus, it can be observed that such expenditures have been allowed as business expenditure in the past based on facts and circumstances of the case and also the nature of the settlement charges paid by the assessee. The Finance Act (No.2), 2024, by inserting the clause iv has made the intent of the revenue clear that such expenditures would not be allowed as deductible expenditure and the same is a straightforward disallowance with no conditions attached to it per se.

In light of the previous judicial precedents, it may be interpreted that post this amendment and notification, any expenses related to settlement of legal proceedings, even if resolved without an admission of guilt, will be treated as non-deductible if they relate to an offense or prohibited activity.

In line with the said notification, CBDT has issued FAQs wherein it has been mentioned that the said notification would be effective with effect from 1 April 2025 and shall apply from AY 2025-26 and onwards. To bring the reporting requirements also in alignment with the same, the Form No. 3CD of the Income-tax Rules, 1962, which is required to be filed during a tax audit, has been amended via CBDT Notification No. 23/2025 dated 28 March 2025 to capture details of such expenses separately. This will enhance the transparency of reporting and assist in stricter scrutiny during tax assessments.

Thus, in a way the above-mentioned notification has given clarity about the settlement charges paid for the notified laws, however, has also created some new questions.

4 [2018] 93 taxmann.com 492 (Mumbai)

5 [2014] 51 taxmann.com 215 (Mumbai)

From the Judiciary

Direct Tax

Whether grandfathered Long-Term Capital Gains (LTCG) exempt under Article 13(4) of the India-Mauritius Double Taxation Avoidance Agreements (DTAA) can be adjusted against grandfathered long-term or short-term capital losses?

Bay Capital India Fund Limited
[TS-382-ITAT-2025(Mum)]

Facts

The assessee, a company incorporated in Mauritius and licensed by the Financial Services Commission of Mauritius as a Collective Investment Scheme, holds a valid TRC.

For the assessment year under consideration, the assessee filed its return of income on 23 September 2019, declaring total income as Nil, carrying forward short-term and long-term capital losses. In the return, the assessee claimed an exemption on long-term capital gains earned from the sale of listed equity shares in India. This exemption was claimed on the basis that the shares were acquired before 1 April 2017, and thus fall under the "grandfathered sale" provisions of the India-Mauritius DTAA.

The return was processed wherein the long-term and short-term capital losses amounting arising from the sale of equity shares acquired after 1 April 2017 (non-grandfathered sales), were set off against the long-term capital gains. As a result, the net long-term capital gains were determined and taxed at the applicable special rate.

The assessee appealed the decision to the learned CIT(A) who dismissed the appeal, concluding that the assessee had incorrectly claimed two different options for the same class of assets in the same assessment year. Specifically, the assessee claimed exemption under the DTAA for long-term capital gains on grandfathered shares while simultaneously applying the provisions of the ITA for treating short-term and long-term capital losses as taxable for the same class of assets.

Held

The Tribunal, after considering the submissions of both parties and reviewing the relevant provisions of the law ruled in favor of the assessee. It observed that the entire long-term capital gains earned by the assessee from the grandfathered sale of shares are exempt from taxation in India under Article 13(4) of the DTAA. Consequently, these gains cannot be considered part of the taxable income of the assessee, and the capital losses incurred on non-grandfathered shares cannot be set off against the exempt gains.

The Tribunal also relied on precedents from similar cases, including the Assessee's own case in the assessment year 2021-22 and the decision in ***Matrix Partners India Investment Holdings, LLC vs DCIT***[6], which upheld that exempt capital gains under the DTAA cannot be included in the computation of the total income for setting off capital losses. In line with these precedents, the Tribunal directed the Assessing Officer to:

- Allow the exemption of the entire long-term capital gains earned from the grandfathered sale of shares.
- Permit the carry forward of the long-term and short-term capital losses incurred by the assessee to subsequent years, as per the provisions of the ITA.

Our Comments

This judgment underscores the importance of honouring treaty provisions, particularly the non-taxability of grandfathered LTCG under Article 13(4) of the India-Mauritius DTAA, and emphasizes that such gains cannot be offset by non-grandfathered capital losses, preserving the integrity of tax exemptions and ensuring taxpayers treaty benefits are upheld.

6 TS-85-ITAT-2025(Mum)

Do services rendered without human intervention or transfer of know-how constitute "Fees for Included Services" under the DTAA, considering the 'make available' clause?

Sita Information Networking Computing USA Inc. [TS-389-ITAT-2025(Mum)]

Facts

The *Sita Information Networking Computing USA Inc.* (assessee) is a company incorporated in USA and a tax resident therein. The assessee does not have any office or place of business in India. The assessee provides application-based IT services, primarily through two service lines: Airport System Solutions and Passenger System Solutions. These services are provided remotely from the Assessee's data center located in Atlanta, Georgia, USA, and are accessed by Indian airlines.

The Assessing Officer, while completing assessments under Section 143(3) r.w.s. 144C(3) of ITA for AYs 2014–15 to 2021–22, held that the income earned by the assessee from Airport System Solutions and Passenger Services was taxable in India as Fees for Technical Services (FTS) under Section 9(1)(vii) of the Act and also as "fees for included services" under Article 12(4) of the India-USA DTAA. The AO reasoned that the services involved technical inputs and therefore qualified as technical services.

The CIT(A) deleted the additions made by the AO, reasoned that it does not involve human intervention, does not satisfy make available clause, and relied on several judicial precedents.

The assessee argued that the services were standard automated services delivered through its proprietary software and data center infrastructure, without any human intervention or transfer of technical knowledge to the recipient and also does not make available any technical knowledge, skill, or know-how to the Indian clients, which is a key condition under Article 12(4)(b) of the DTAA for taxing services as included services.

Held

The Tribunal upheld the order of the CIT(A) and dismissed the appeals filed by the Revenue. It observed that the services provided by the assessee under Passenger System Solutions were standardized, automated, and delivered entirely from its data center, without any human intervention or transfer of technical knowledge to the recipient.

The Tribunal stated that, for a service to qualify as "fees for included services" under Article 12(4)(b) of the India-USA DTAA, it must "make available" technical knowledge, skill, experience, know-how, or processes to the recipient — that is, the recipient must be enabled to apply the technology independently. In this case, the services merely allowed Indian airlines to access and use the functionalities hosted on the Assessee's platform, and did not involve any transfer of technical capability. Accordingly, the Tribunal concluded that the income was not taxable in India under the provisions of the Act or the DTAA.

Our Comments

This judgment highlights the significance of the term 'make available' to qualify a service as FTS under the DTAA and clarifies that mere use of technology or remote access to software without transferring technical knowledge does not satisfy the criteria.

Income Tax Appellate Tribunal (ITAT) Kolkata quashes penalty levied under Black Money Act where investments were made from explained sources and there was a inadvertent omission in reporting the Foreign Asset in Income Tax Return (ITR).

Gaurav Kumar Chopra vs. JCIT, Kolkata [TS-426-ITAT-2025(Kol)]

Facts

- The Assessee, an individual, has filed its return of income for AY 2017-18 by declaring income of INR 3.071 million.
- A search was conducted on the residential and business premises of the Group and notices under Section 143(2) and 142(1) the ITA issued on the Assessee.
- Assessing Officer (AO) passed an assessment order u/s 143(3) of the Act and initiated penalty proceedings under Section 41 of the Black Money Act, 2015 (BMA), for non-disclosure of Foreign Assets (FA).
- Assessee filed appeal before the CIT(A) and disclosed that the investments were made from explained sources and were inadvertently omitted to disclose FA in Schedule FA and request to abeyance the penalty till disposal of the appeal.
- After considering the fact, CIT(A) passed an order for granting a relief from the penalty, by considering that AO made additions based on solely non-disclosure of FA in Schedule FA without assessing the genuineness of the source.
- Challenging this, the Revenue appealed to the ITAT, who upheld that Foreign Assets were not disclosed in Schedule FA, hence presumed to be undisclosed.

Decision by Kolkata ITAT:

On further appeal, the Kolkata ITAT deleted the penalty levied under Section 41 of the BMA holding that assessee had made a minor foreign investment that too from disclosed source of funds and had inadvertently missed to report the same in Schedule FA of the income tax return. The ITAT further laid that both substantive and procedural fairness must be kept in mind in case of penalty proceedings.

Our Comments

This is a welcome ruling where the ITAT has laid that in absence of any deliberate concealment, an inadvertent omission does not warrant penal actions under the BMA. The onus of proof will however be on the assessee.

Indirect Tax

The Constitutional validity of GST provisions insofar as they seek to tax the services provided by Clubs/ Associations to their members by disregarding the principle of mutuality.

Indian Medical Association vs. Union of India [W.A. No. 1659 and 1487 of 2024 and W.A. 468 of 2025]

Facts

- The petitioner runs various mutual schemes for the benefit of its member-doctors, such as Social Security Scheme, Kerala Health Scheme, Professional Disability Support Scheme, Pension Scheme etc. To receive these benefits, the member-doctors contribute an admission/ annual fee.
- In light of the principle of mutuality, the petitioner bona fide believed that no GST was payable on the services provided inasmuch as effectively the services were provided by the members of the Association to themselves.
- However, pursuant to the retrospective amendment to Sections 2(17) and 7 of the CGST Act (through Finance Act, 2021) that expanded the definition of 'supply' to cover within its ambit "activities or transactions between associations and members" and to deem the association and members as two separate persons for the purposes of GST, the DGGI authorities initiated recovery proceedings against the petitioner.
- Hence, the petitioner challenged the retrospective levy before Kerala HC.
- While the Single Judge Bench upheld the taxability of services by Club/Association to its members, it found the retroactive operation to be legally unsustainable on the principles of fairness.
- Consequently, both the petitioner as well as the Revenue approached the Division Bench (DB).

Ruling

On the constitutionality of impugned amendments

- Analyzing the Constitutional scheme of GST, DB observed that the levy of tax is on the "supply" of "goods or services or both" for a consideration. The concept of "supply" and "service" as understood under the Constitution and the CGST/SGST Acts (before their amendment) both excluded transactions informed by the principle of mutuality i.e. a supply/service from one entity to itself (self-supply/self-service). Thus, even if there is now a deemed "supply", based on the amendments effected to the CGST/SGST Acts, there is no deemed "service" in circumstances where the service is rendered by a Club/Association to its members, since the definition of 'service' has not been amended.
- Moreover, the Constitution has not been amended to deem a supply of service by a Club or Association to its members as a taxable supply.
- Rejecting the Revenue's contention that it is always open to the legislature to provide an artificial meaning to a word for the purposes of the Statute, DB observed, *"When a word/concept in the Constitution has been interpreted by the Supreme Court in a particular manner, a legislative body, that derives its competence to enact a Statute from the Constitution, cannot give to the word/ concept a meaning that goes against the meaning assigned to the same word/concept by the Supreme Court in the context of its setting under the Constitution."*
- DB further observed, the SC having held in State of West Bengal vs. Calcutta Club Ltd [(2019) 19 SCC 107] that the principle of mutuality has survived the 46th amendment to the Constitution, so long as the said judgement holds sway as a binding precedent and/ or the Constitution is not amended suitably to remove the concept of mutuality from the concepts of supply and service thereunder, the impugned amendment to the CGST/SGST Acts must necessarily fail the test of constitutionality.

On the retroactive/retrospective operation of the impugned amendments

- Recording its agreement with the application of principle of fairness by the Single Judge Bench, DB observed, *"The insertion of a statutory provision that alters the basis of indirect taxation with retrospective effect, so as to tax persons for a prior period when they had not anticipated such a levy and, consequently, had not obtained an opportunity to collect the tax from the recipient of their services, militates against the concept of Rule of Law"*

Our Comments

While the judgement fortifies the application of mutuality principle under the GST law, a question arises as to whether similar entities/bodies such as cooperative housing societies, trade associations, etc. can decide not to discharge GST on activities undertaken for their members basis the same?

In fact, could they contemplate claiming the refund of taxes paid during the past period, subject to the principles of unjust enrichment, i.e. the incidence of tax was not passed onto their members?

There is a high probability that the Revenue could carry this matter to the Supreme Court. However, until there is a stay and the Apex Court renders its final verdict, the taxpayers could leverage on the Kerala HC's ruling.

Transfer Pricing

ITAT: Upholds use of Royalty Savings Method over TPO's CUP for determining ALP of intangibles

Heubach Colour Pvt Ltd [ITA No.547 & Ahm/2012, A.Y. 2007-08]

Facts

In AY 2007–08, Heubach Colour Pvt. Ltd. (the assessee) acquired the business of Avecia from its AE, Colour Ltd., for INR 6.097 billion, including intangibles like trademarks, know-how, and goodwill. The assessee used a valuation by M/s. Dalal & Shah applying the NPV/Royalty Savings Method under the Income Approach per Organisation for Economic Co-operation and Development (OECD) guidelines.

The Transfer Pricing Officer (TPO) rejected the assessee's valuation method and applied the Comparable Uncontrolled Price (CUP) method, using the purchase price amounting to INR 69.4 million based on a transaction entered between Colour Ltd. and Avecia Ltd in 2002 as the ALP. This led to an upward adjustment of INR 5.403 billion. Further, the TPO treated the differential amount of INR 5.403 billion as "cash asset" transferred to the AE without consideration, resulting in a duplicate adjustment.

Additionally, the TPO rejected the assessee's method of TNMM for the transaction of export of pigment products to its AE amounting to INR 6.636 billion, citing insufficient FAR analysis. TPO applied a 15% royalty markup to all sales, including both Avecia and non-Avecia products, leading to an additional adjustment of INR 328.3 million.

Assessee's Contention

The assessee objected to the TPO's use of the CUP method, arguing that the valuation done for intangibles in 2002 was not comparable to the valuation in 2007 due to differences in economic conditions, contractual terms and business model changes. Further, the assessee cited Rule 10B(4) which prohibits the use of outdated data.

In connection to the treatment of differential amount of INR 5.403 billion as cash asset, the assessee argued that it amounted to double taxation and was impermissible. With respect to the sale of goods, the assessee contended that the royalty markup should only apply to Avecia-related sales, and not non-Avecia products. The assessee proposed a reduced adjustment of INR 1.364 billion , based on a 6.5% royalty rate for Avecia sales.

ITAT order: The ITAT upheld the CIT(A)'s rejection of the CUP method, finding that the 2002 transaction was outdated, factually dissimilar, and did not reflect the economic conditions or contractual realities of the 2007 deal. Further, the ITAT accepted the NPV/Income Approach with adjustments, noting that although the method used by the valuer had flaws, it was acceptable in the absence of comparable uncontrolled transactions.

On the second issue, the ITAT agreed that the INR 5.403 billion could not be added twice, as a reduction in asset value and again as income. Therefore, the duplicate addition was rightly deleted by CIT(A). Lastly, the ITAT upheld the rejection of TNMM due to an incomplete FAR analysis but found the TPO's adjustment excessive. It accepted the assessee's contention that the markup should only apply to Avecia sales and reduced the adjustment from INR 3.283 billion to INR 1.776 billion.

Our Comments

It is recommended to maintain factual and legal merits to justify the royalty approach, as the ITAT rightly dismissed all the three grounds raised by the Department based on the authenticity and fairness of the data maintenance.

ITAT upholds segregation of trading and manufacturing activities and remits custom duty adjustment

Rajasthan Prime Steel Processing Center Pvt Ltd[7]

The taxpayer is a group company of Honda Trading Corporation, Japan, involved in manufacturing auto parts and trading steel coils, dies, auto components, and related services. Its business activities are divided into two segments:

Trading: Procurement of imported steel coils for supply to customers, including AEs.

Processing: Post-procurement, activities like slitting, blanking, and welding are performed on steel coils, which are then resold to AEs as processed, tailor-made goods.

During the TPO proceedings, the Ld. TPO classified the taxpayer's processing activities as manufacturing, stating that the taxpayer's role went beyond being a distributor. However, the taxpayer argued that the processing activities did not constitute manufacturing under Excise Laws as it had not made any heavy value addition in the processing work and should be considered part of its distribution activities. Additionally, the taxpayer incurred significant customs import duty charges for imported raw materials, which it treated as non-operating for margin calculations. The TPO rejected the adjustment sought for customs duties. The Ld. CIT(A) upheld the TPO's stand for segmentation of business activity and allowed the treatment of import of custom duty charged as non-operating as originally done by the taxpayer.

ITAT Order

The Tribunal upheld TPO's and CIT(A) stand of segmentation of business activity of taxpayer. It observed that taxpayer operated in two types of business activities – pure trading and trading after processing the goods as per specifications/tailor made. The tribunal refrains from getting into technicalities of the term manufacturing but stresses on the fact that tailor made goods are different

7 [ITA No.3292 & 3293/Del/2018, A .Y . 2009-10 & 2010-11 and ITA No.3537 & 3538/Del/2018, A .Y . 2009-10 & 2010-11]

than raw material because the said raw material passes through some processing activity.

Further, in relation to Custom duty, ITAT is of the opinion that the custom duty adjustments have to be done if it adversely affects the operating margin of the taxpayer than those of comparables. No doubt, a higher import content of raw material by itself does not warrant an adjustment in operating margins, but what is to be really seen is whether this high import content was necessitated by the extraordinary circumstances beyond taxpayer's control. In case the differences which are likely to materially affect the price, cost charged or paid in, or the profit in the open market, the idea is to make reasonable and accurate adjustment to eliminate such differences having material effect.

It also stated that taxpayer cannot be expected to get the details and particulars for comparable companies which are not in public domain, it is inevitable that some approximations and reasonable assumptions are to be made. Accordingly, ITAT directed the TPO to give suitable adjustment against the custom duty component while determining the Arm's Length Price (ALP) in order to bring uniformity.

Our Comments

It is essential for the taxpayer to possess a comprehensive understanding of all its business operations. Processing activities regardless of their extent, involve transformation and cannot be equated with mere trading. Moreover, the definition provided under one statute cannot be automatically applied to another statute unless the latter explicitly incorporates or references it. Furthermore, in the case of extraordinary items, outright exclusion of line item is not an appropriate approach, suitable adjustments taking reasonable assumptions should be made where comparable data is not available in the public domain.

Quotes & Coverage

Notification of GST Appellate Tribunal (Procedure) Rules, 2025
26 April 2025
https://tinyurl.com/2hyay52f
ET CFO | Prabhat Ranjan

Luxury Purchases Over Rs 10 Lakh Now Under Tax Lens: Experts Warn of Compliance
24 April 2025
https://tinyurl.com/4b3nkkbf
ET CFO | Maulik Doshi

From Compliance To Consequence, Sebi's Push Behind CSCRF
24 April 2025
https://tinyurl.com/34vk2nt5
Business World | Subodh Dandawate

India's Steel Sector At Crossroads Amid US Tariffs, Chinese Dumping
23 April 2025
https://tinyurl.com/476nnvxb
Business World | Vikash Thakur

Is 18% GST levied on maintenance amount when housing society is managed by builder?
22 April 2025
https://tinyurl.com/musa3v4p
The Economic Times | Sanjay Chabbria

CBIC's GST compliance reforms can ease startup woes, rein in officer discretion, says experts
19 April 2025
https://tinyurl.com/397t8569
ET CFO | Prabhat Ranjan

Pay GST on society maintenance if monthly charge is more than this and annual collection is above Rs 20 lakh
17 April 2025
https://tinyurl.com/26rmzs9y
The Economic Times | Sanjay Chabbria

18% GST instead of 5% to be charged on dining in a hotel if room rent per night is above this; know how much more it will cost?
10 April 2025
https://tinyurl.com/4zh49nw3
The Economic Times | Sanjay Chabbria

Tax Talk

Indian Developments

Direct Tax

Aadhaar Intimation for PAN Allotted via Enrolment ID

Notification No. 26/2025 [S.O. 1608(E)/F. NO. 370142/1/2025-TPL] dated 3 April 2025

Board notified that, every person who has been allotted PAN on the basis of Aadhar Enrollment ID for which application was filed prior to 1 October 2024 shall intimate his Aadhar number to the Principal Director General of Income-tax Systems (PDGIT) or Director General of Income-tax Systems (DGIT) or any other authorized person on or before 31 December 2025 or such other date specified by the Central Board of Direct Taxes (CBDT).

No TDS on Withdrawal under Notified Deposit Scheme

Notification No. 27/2025 [S.O. 1615(E)/F. NO. 370142/13/2025-TPL] dated 4 April 2025

The CBDT has notified that TDS shall not be deducted under Section 194EE of the Act, on withdrawals made by individuals from the National Savings Scheme on or after the date of publication of this notification, where deductions were previously claimed under Section 80CCA of the Act.

Income-tax (Tenth Amendment) Rules 2025 - Insertion of Rule 12AE and Form ITR B.

Notification No. 30/2025 [G.S.R. 221(E)/F.NO. 370142/29/2024-TPL] dated 7 April 2025

1. CBDT has inserted the new rule 12AE, for filing the return of income under Section 158BC(1)(a) of the Act for search initiated under Section 132 or requisition made under Section 132A on or after 1 September 2024, shall be filed in Form ITR-B and shall be verified in the manner as specified below:
   a. Persons whose accounts are audited under Section 44AB of Act or company or political party shall furnish the return electronically under the digital signature.
   b. Persons not covered under the categories mentioned above shall furnish electronically under digital signature or by transmitting data electronically under electronic verification code.
2. Further, CBDT notified that, The PDGIT or DGIT of Income-tax shall specify the procedures, formats and standards for transmission of data and will be responsible for implementing security, archival, and retrieval policies in furnishing return in specified manner
3. In cases where claim of credit of tax payment other than self-assessment tax is made against undisclosed income for block period such credit may be allowed subject to satisfaction of assessing officer.

HUDCO Bonds Notified under Section 54EC

Notification S.O. 1644(E) [NO. 31/2025/F.NO. 225/06/2024/ITA-II] dated 7 April 2025

1. As per Section 54EC of the Act, an assessee can claim exemption of up to INR 5 million on long-term capital gains arising from the transfer of land, building, or both by investing in notified bonds.
2. The Board has now notified that bonds issued by Housing and Urban Development Corporation Limited (HUDCO) on or after 1 April 2025 which are redeemable after 5 years are classified as 'long-term specified asset' for claiming exemption under Section 54EC of the Act.
3. Further, CBDT has notified that the proceeds from such bonds shall be utilized only for those infrastructure projects which can service the debt out of the project revenues without being dependent on the State Governments for the service of debts.

Section 206C of the ITA – Collection of Tax at Source on Specified Goods

Notification S.O. 1825(E) [NO. 36/2025/F. NO. 370142/11/2025-TPL] dated 22 April 2025

1. Section 206(1F), TCS on sale of goods was amended by Finance (No. 2) Act, 2024 to include other high value goods under the ambit of TCS. The CBDT has now notified that with effect from 22 April 2025, seller is required to collect tax at source on receipts of payment from sell of wrist watches, art pieces like antiques, paintings & sculptures, collectibles such as coins and stamps, yachts, rowing boats, canoes & helicopters, sunglasses, handbags & purse, shoes, sportswear and equipment such as golf kits and skiwear, home theatre systems, and horses used in horse racing or polo, if the value of such goods exceeds INR 1 million.
2. Further, CBDT by issuing an FAQ clarified that TCS will be levied on sale of a single item of above specified goods which is of the value exceeding INR 1 million.

Disallowance of Expenditure for Settling Proceedings under Notified Laws

Notification S.O. 1838(E) [NO. 38/2025/F. NO 370142/11/2025-TPL] dated 23 April 2025

1. The Central Government notified that, any expenditure incurred for settling proceedings initiated for any contravention or default under the following laws shall not be regarded as expenditure incurred wholly and exclusively for the purposes of business or profession and shall be disallowed under Section 37(1) of the ITA:
   a. The Securities and Exchange Board of India Act, 1992;
   b. The Securities Contracts (Regulation) Act, 1956;
   c. The Depositories Act, 1996; and
   d. The Competition Act, 2002.
2. Further, CBDT by issuing an FAQ clarified that the amendment is effective from 1 April 2025 and shall accordingly apply from Assessment Year 2025-26 onwards. Further, relevant updates are also made in Form 3CD enabling the reporting of such expenditure.

Alerts

Key Highlights GST Notifications and Clarification Circulars April 2025
6 May 2025
https://tinyurl.com/ked682tt

VAT Public Clarification (Barter & Precious Metals)
2 May 2025
https://tinyurl.com/mvhp6pm7

TCS on Sale of High-Value Luxury Goods
24 April 2025
https://tinyurl.com/45xpyykx

Indirect Tax

Customs

CBIC introduces trade facilitative measures for transshipment and air cargo

Notification No. 30/2025-Customs (N.T.) dated 24 April 2025 read with Circular No. 15/2025-Customs dated 25 April 2025

The Central Board of Indirect Taxes and Customs (CBIC) has introduced key reforms to streamline air cargo handling, with a focus on reducing procedural costs and supporting digitization. The salient reforms are listed below:

- Waiver of INR 20 transhipment permit fee earlier charged on every application, to lower air cargo costs.
- Simplified and standard procedure for temporary import of Unit Load Devices (ULDs) for movement outside customs area, including those with tracking devices.
- Continuity bond allowed for repeated ULD imports/ exports, thereby reducing the paperwork.
- Tracking devices must follow aviation norms; Unique Identity Numbers to be declared.
- Digitized transhipment via the Indian Customs EDI Gateway (ICEGATE) and promotion of the all-India bond system.

New framework for post-export amendments to Shipping Bills under Instrument based Schemes

Notification No. 21/2025-Customs (N.T.) dated 3 April 2025 read with Circular No. 11/2025-Customs dated 03 April 2025

The CBIC has implemented the Export Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025 w.e.f. 3 April 2025 with a revised framework for conversion of shipping bills and bills of export.

The revised framework has the following key automation features:

1. Amendments under Section 149 of the Customs Act.
2. Processing of provisional assessments in exports.
3. Re-transmission of relevant details post conversion to the concerned authorities.

The process has been fully digitalized. Officer-level approvals shall be needed only for sensitive data changes. Further, under these Regulations -

- All forms of export entry are covered, i.e. exports via post/courier (Section 84), shipping bills (Section 50) and baggage exports (Section 83).
- Amendment can be done for shipping bills filed under drawback or instrument-based schemes or a combination of both.
- Application is allowed within 1 year from the date of clearance, i.e. the Let Export Order, and is extendable on merits up to another year with requisite approvals.
- The conversion shall be permitted only if benefits are not claimed or duly reversed.
- Further, the conversion will be allowed only if no investigation is in process, all scheme conditions are met, and proof existed at the time of export.

CBIC replaces 'Certificate of Origin' with 'Proof of Origin' for availing Trade Agreement benefits

Notification No. 14/2025-Customs (N.T.) dated 18 March 2025 read with Circular No. 14/2025-Customs dated 21 April 2025

CBIC has amended the compliance requirement under Customs Administration of Rules of Origin under Trade Agreements Rules, 2020 (CAROTAR) for availing the preferential duty benefits under Trade Agreements.

As per the change:

- Importers must submit a self-certified Proof of Origin instead of Certificate of Origin from an authorized agency, while filing the bill of entry.
- The Customs officers will focus on checking whether the said Proof is genuine and if the information provided is accurate.
- If any discrepancies are found, the Customs officers can reject the preferential duty claim without verification.
- The Proof of Origin may be verified during the Customs clearance or even after the goods have been imported.

Foreign Trade Policy

DGFT introduces 'Mode of Export' field in eBRC format for service exports

Trade Notice No. 02/2025-26 dated 21 April 2025

Effective 1 May 2025, the Directorate General of Foreign Trade (DGFT) has introduced a new mandatory field in the eBRC format titled 'Mode of Export of Services' with an aim to improve the granularity and accuracy of services export data, and to align India's data collection policy with international norms under WTO General Agreement on Trade in Services (GATS).

The new field corresponds to the four modes of service trade mentioned in GATS, viz.:

- **Mode 1 (Cross-border):** Services supplied (from India) remotely across borders without movement of individuals.
- **Mode 2 (Consumption abroad):** Consumer travels to the service provider's country (i.e. to India).
- **Mode 3 (Commercial presence):** Service supplier (from India) establishes a commercial entity abroad.
- **Mode 4 (Presence of natural persons):** Individual (from India) travels abroad temporarily to provide services.

Transfer Pricing

Time-barring of cases involving transfer pricing and non-resident cases – Roca Bathroom and Shelf drilling matter heard by Supreme Court

In the latest development having significant impact on the Indian Transfer Pricing litigation landscape (including cases involving non-resident) involving time limit of passing the final order in cases where the taxpayer were provided with an opportunity to file objections before the Dispute Resolution Panel (DRP) against the draft order, the Supreme Court (SC) has heard the matter for the appealed filed by the Revenue. In such cases the date of final order often exceeded the time limit provided under Section 153 where taxpayer filed objections before DRP (and at times even when the taxpayers didn't file objections before DRP).

Background

The central issue in this case pertains to the interpretation of time limits for passing assessment orders under the ITA specifically the interplay between Section 144C (which deals with the Dispute Resolution Panel or DRP) and Section 153 (which prescribes general time limits for assessments).

The Madras High Court, in its 2022 ruling for Roca Bathroom Products (P) Limited 8, held that the overall time limits prescribed under Section 153 apply to assessments involving the DRP process under Section 144C. This implies that the final assessment order, even after DRP proceedings, must be passed within the time frame stipulated in Section 153 and there is no additional time limit due to Section 144C.

Developments in Other Jurisdictions

Following the Madras High Court's decision, the Bombay High Court, in the case of Shelf Drilling Ron Tappmeyer Ltd. v. ACIT, concurred with this interpretation, reinforcing that the time limits under Section 153 prevail over those in Section 144C.

However, the Revenue challenged these decisions, leading to the filing of Special Leave Petitions (SLPs) before the SC. The Supreme Court directed that the Bombay High Court's decision in the Shelf Drilling case should not be cited as precedent in other matters until further orders. Considering this stay many cases have been piled up and held in abeyance in various courts and tribunals until the SC passes its order.

Current Status

The case has been heard by the SC bench comprising of Hon'ble Mrs. Justice B.V. Nagarathna and Hon'ble Mr. Justice Satish Chandra Sharma and judgment has been reserved. The SC Bench orally observed that the provisions will have to be interpreted in a 'practical' and holistic manner. The judgment is expected to be delivered soon by the SC which may unleash a flood of cases at lower courts. The taxpayers need to be mindful of the impact of the verdict to be delivered by SC.

8 [TS-359-HC-2022(MAD)-TP] - (2021) 127 taxmann.com 332 (Madras)

Upcoming Events

GST in Action
23 May 2025
Achromic Point | Sanjay Chhabria, Aditya Nadkarni

Tax Talk

Global Developments

Indirect Tax

South African businesses liable to VAT on electronic services from foreign suppliers

Starting 1 April 2025, foreign traders providing electronic services exclusively to South African VAT registered businesses (B2B) are not required to charge VAT. Instead, the South African business customer will account for VAT under reverse charge mechanism. However, if the foreign supplier also sells to consumers (B2C), they must register and charge VAT on all supplies, including B2B services.

No e-invoicing mandate for registered non-established entities in Belgium

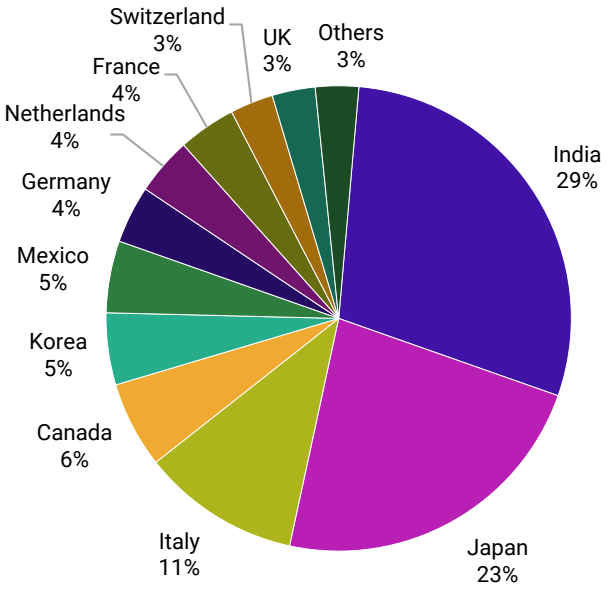
The Belgian authorities have officially confirmed that non-established entities registered for VAT in Belgium will be excluded from the scope of the country's B2B e-invoicing mandate that will be effective from 1 January 2026.

Transfer Pricing

United States: Announcement and report concerning advance pricing agreement[9]

The Internal Revenue Service of United States of America released its 26th annual advance pricing agreement (APA) report which discusses experience, structure, and activities of the Advance Pricing and Mutual Agreement (APMA) program. The highlights of the report are as under:

Bilateral APAs executed by Country in 2024



- The total number of APA's executed in 2024 was 142 (13 unilateral, 119 bilateral, and 10 multilateral) as against 169 applications that were filed. The number is lower as compared to 156 APA's executed in 2023.
- The above chart signifies strong and robust relationship between competent authorities of India and USA.
- In 2024, the percentage of APA renewals executed was 58% as compared to 47% in 2023.
- More than half of the APAs executed in 2024 involved transactions between non-U.S. parents and U.S. subsidiaries.
- Most of the transactions covered in APAs executed in 2024 involve the sale of tangible goods or the provision of services. 22% of the transactions involve use of intangible property, which can be among the most challenging transactions in APMA's inventory.
- In 2024, the most commonly used transfer pricing method (TPM) for both the sale of tangible property

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and the use of intangible property continued to be the comparable profits method/transactional net margin method. It was used for 78% of these types of transactions.

- The operating margin (OM) continued to be the most common profit level indicator (PLI) used to benchmark results. It was used in 72% of the cases.
- The median time required to complete an APA decreased in 2024 to 33.5 months (*versus* 42 months in 2023).

OECD Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (CbC MCAA)

As part of global efforts to enhance tax transparency and combat base erosion and profit shifting (BEPS), numerous countries have been signing the **CbC MCAA** since 2024. This agreement facilitates the automatic exchange of CbC reports among tax authorities to ensure greater oversight of multinational enterprises. The recent signatories include:

Sr. No.	Country	Date of Signing
1	Cameroon	25 January-2024
2	Mauritania	12 February 2024
3	Albania	11 March 2024
4	Montenegro	14 May 2024
5	Armenia	05 September 2024
6	Antigua and Barbuda	28 October 2024
7	Trinidad & Tobago	07 November 2024
8	Vietnam	03 January 2025
9	Serbia	04 March 2025
10	Mongolia	06 March 2025
11	Botswana	09 April 2025
12	Cabo Verde	09 April 2025

The complete and updated list of signatories is available at the following link:

OECD CbC MCAA Signatories List (PDF)

Apart from the above USA has executed similar exchange agreements with various countries.

Group filing in any of the above notified jurisdiction is a sufficient compliance of CbC reports and other group entities may only need to notify of such filing in the relevant tax authorities of their respective countries. However, where no exchange treaty exists, local filing is required.

Compliance Calendar

Direct Tax
Indirect Tax

7 May 2025

- Securities Transaction Tax - Due date for deposit of tax collected for the month of April 2025.
- Commodities Transaction Tax - Due date for deposit of tax collected for the month of April 2025.
- Declaration under Sub-section (1A) of Section 206C of the ITA to be made by a buyer for obtaining goods without collection of tax for declarations received in the month of April 2025 in Form 27C.
- Collection and recovery of equalization levy on specified services in the month of April 2025.
- Due date for deposit of Tax deducted/collected for the month of April 2025. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income tax Challan.

15 May 2025

- Due date for issue of TDS Certificate for tax deducted under Section 194S in the month of March 2025 IN Form 16E.
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of April 2025 in Form 24G.
- Quarterly statement of TCS deposited for the quarter ending 31 March 2025, in Form 27EQ.
- Monthly statement to be furnished by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of April 2025 in Form 3BB.
- Monthly statement to be furnished by a recognised association in respect of transactions in which client codes have been modified after registering in the system for the month of April 2025 in Form 3BC.
- Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of March 2025 in Form 16B.
- Due date for issue of TDS Certificate for tax deducted under Section 194-IB in the month of March 2025 in Form 16C.
- Due date for issue of TDS Certificate for tax deducted under Section 194M in the month of March 2025 in Form 16D.

10 May 2025

- GSTR-7 for the month of April 2025 to be filed by persons liable to Tax Deduction at Source (TDS).
- GSTR-8 for the month of April 2025 to be filed by E-Commerce Operators liable to Tax Collection at Source (TCS).

11 May 2025

- GSTR-1 for the month of April 2025 to be filed by all registered taxpayers not under QRMP scheme.

13 May 2025

- GSTR-6 for the month of April 2025 to be filed by Input Service Distributors (ISDs).
- Uploading B2B invoices using Invoice Furnishing Facility (IFF) under QRMP scheme for the month of April 2025 by taxpayers with aggregate turnover of up to INR 50 million.
- GSTR-5 for the month of April 2025 to be filed by Non-Resident Foreign Taxpayers.

20 May 2025

- GSTR-5A for the month of April 2025 to be filed by Non-Resident Service Providers of Online Database Access and Retrieval (OIDAR) Services.
- GSTR-3B for the month of April 2025 to be filed by all registered taxpayers not under QRMP scheme.

30 May 2025

- Statement to be furnished under Section 285B of the ITA by a person carrying on production of a cinematograph film or engaged in specified activity or both for Previous Year 2024-25 in Form 52A.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of April 2025 in Form 26QB.
- Due date for furnishing of challan cum statement in respect of tax deducted under Section 194M in the month of April 2025 in Form 26QC.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IB in the month of April 2025 in Form 26QD.
- Due date for furnishing of challan cum statement in respect of tax deducted under Section 194S in the month of April 2025 in Form 26QE.
- Quarterly TCS certificate in respect of tax collected by any person for the quarter ending 31 March 2025, in Form 27D.

Compliance Calendar

Direct Tax
Indirect Tax

31 May 2025

- Application for exercise of option under clause (2) of the Explanation to Sub-section (1) of Section 11 of the ITA (if the assessee is required to submit return of income on or before 31 July 2025) in Form 9A.
- Quarterly statement of TDS deposited for the quarter ending 31 March 2025, in Form 24Q/26Q/27Q.
- Quarterly statement of tax deposited in relation to transfer of virtual digital asset under Section 194S to be furnished by an exchange for the quarter ending 31 March 2025, in Form 26QF.
- Return of tax deduction from contributions paid by the trustees of an approved super annuation fund.
- Due date for furnishing of statement of financial transaction (in Form No. 61A) as required to be furnished under Sub-section (1) of Section 285BA of the Act respect of a Financial Year 2024-25.
- Due date for efiling of annual statement of reportable accounts as required to be furnished under Section 285BA(1)(k) (in Form No. 61B) for calendar year 2024-25.
- Statement of particulars to be filed by reporting person under clause (viii) of Sub-section (5) of Section 80G and clause (i) to Sub-section (1A) of Section 35 of the ITA for the Financial Year 2024-2025 in Form 10BD.
- Certificate of donation under clause (ix) of Sub-section (5) of Section 80G and under clause (ii) to Sub-section (1A) of Section 35 for the Financial Year 2024-2025 in Form 10BE.
- Certificate of an accountant under Sub-rule (6) of rule 8B in Form 5BA.
- Application for allotment of PAN in case of non-individual resident person, which enters into a financial transaction of INR 250,000 or more during FY 2024-25 and has not been allotted any PAN Application for allotment of PAN in case of person being managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in Rule 114(3)(v) or any person competent to act on behalf of the person referred to in Rule 114(3)(v) and who has not allotted any PAN.
- Statement to be furnished to the Assessing Officer/ Prescribed Authority under clause (a) of the Explanation 3 to the third proviso to clause (23C) of Section 10 or under clause (a) of Sub-section (2) of Section 11 of the ITA (if the assessee is required to submit return of income on 31 July 2025) in Form 10.

7 June 2025

- Securities Transaction Tax - Due date for deposit of tax collected for the month of May 2025.
- Commodities Transaction Tax - Due date for deposit of tax collected for the month of May 2025.
- Declaration under sub-section (1A) of Section 206C of the ITA to be made by a buyer for obtaining goods without collection of tax for declarations received in the month of May 2025 in Form 27C.
- Collection and recovery of equalisation levy on specified services in the month of May 2025.
- Due date for deposit of Tax deducted/collected for the month of May 2025. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income tax Challan.

11 June 2025

- GSTR-1 for the month of May 2025 by all registered taxpayers not under QRMP scheme.

13 June 2025

- GSTR-6 for the month of May 2025 to be filed by ISDs.
- Uploading B2B invoices using IFF under QRMP scheme for the month of May 2025 by taxpayers with aggregate turnover of up to INR 50 million.
- GSTR-5 for the month of May 2025 to be filed by Non-Resident Foreign Taxpayers.

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